

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**Court Minutes**

**December 1, 2008**

- C056148      THE PEOPLE v.      (Not For Publication)**  
**MICHAEL LEONARD SMITH, JR.**  
The judgment is affirmed.  
SIMS, J.  
We Concur: Scotland, P.J.  
Cantil-Sakauye, J.
- C056202      THE PEOPLE v.      (Not For Publication)**  
**AARON RAY ALLMAN**  
The order is affirmed.  
CANTIL-SAKAUYE, J.  
We Concur: Morrison, Acting P.J.  
Robie, J.
- C057947      THE PEOPLE v. EDDIE ORTIZ      (Not For Publication)**  
The trial court judgment is affirmed.  
SIMS, Acting P.J.  
We Concur: Raye, J.  
Morrison, J.
- C058646      THE PEOPLE v.      (Not For Publication)**  
**FLOYD LEROY HAMILTON**  
Probation condition No. 19 of defendant's special conditions of probation is modified to state: "Do not associate with known or reputed users of controlled substances, nor be in a place where you know or reasonably should know that controlled substances are present." ...  
As so modified, the order is affirmed. The court is directed to amend its records to reflect the modification and to forward the appropriate documents to appellant and the probation department.  
ROBIE, J.  
We Concur: Nicholson, Acting P.J.  
Morrison, J.
- C058989      THE PEOPLE v.      (Not For Publication)**  
**ANDREW ELI GORBET, JR.**  
The judgment is affirmed. The trial court is directed to correct the abstract of judgment and to forward a certified copy to the Department of Corrections and Rehabilitation.  
ROBIE, J.  
We Concur: Scotland, P.J.  
Raye, J.

**COURT OF APPEAL  
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**Court Minutes**

**December 1, 2008, Continued**

- C054292      CONTOIS et al. v. ALUMINUM      (Not For Publication)**  
**PRECISION PRODUCTS, INC. et al.**  
The judgment on Kingman's and TSA's motion for summary judgment is affirmed. Defendants Kingman and TSA shall recover costs on appeal. ... The judgment on Catalina's motion for summary adjudication is reversed. The Contoises shall recover costs on appeal as to that portion of their appeal. ...  
CANTIL-SAKAUYE, J.  
We Concur: HULL, Acting P.J.  
Robie, J.
- C056663      BURKS v. THE SUPERIOR COURT OF      (Not For Publication)**  
**SACRAMENTO COUNTY; THE PEOPLE**  
Let a peremptory writ of mandate issue directing the respondent court to accept petitioner's *Pitchess* motion for filing and to consider the motion. The alternative writ has served its purpose and is discharged.  
HULL, J.  
We Concur: Scotland, P.J.  
Butz, J.
- C054261      SHULL v. SHAW, as California Highway      (Not For Publication)**  
**Patrol Officer, etc., et al.**  
THE COURT:  
It is hereby ordered that the opinion filed herein on October 31, 2008, be modified...  
This modification does not change the judgment.  
The petition for rehearing is denied.  
BY THE COURT:  
BLEASE, Acting P.J.  
Morrison, J.  
Hull, J.
- C055305      GATES et al. v. ARREDONDO et al. v. CHANDLER et al. v. GATES et al.**  
BY THE COURT:  
Appellants' petition for rehearing is granted as to the issue raised in the petition regarding the validity of the award of attorney fees. The decision filed on October 28, 2008, is vacated.  
RAYE, Acting P.J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
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**Court Minutes**

**December 2, 2008**

**C056856      THE PEOPLE v.      (Not For Publication)**  
**ROGELIO TORRES HERNANDEZ**

The judgment is affirmed.

SCOTLAND, P.J.

We Concur:    Sims, J.

Butz, J.

**C057225      THE PEOPLE v.      (Not For Publication)**  
**ERIC WILLIAM FRANKLIN**

The judgment is reversed and the matter remanded with the direction to issue a new order granting defendant's motion to suppress,

DAVIS, J.

We Concur:    Sims, Acting P.J.

Butz, J.

**December 3, 2008**

**C055638      THE PEOPLE v.      (Not For Publication)**  
**JIMMY FRANKLIN GRACE**

The judgment is modified to (1) stay imposition of sentence on defendant's conviction for misdemeanor child annoyance in count five, pursuant to Penal Code section 654, and (2) reverse defendant's conviction for misdemeanor child annoyance in count six. As modified, the judgment is affirmed. The trial court is directed to prepare a corrected abstract of judgment and to forward a copy to the Department of Corrections and Rehabilitation.

NICHOLSON, J.

We Concur:    Davis, Acting P.J.

Robie, J.

**C056330      THE PEOPLE v. LARRY ROBINSON      (Not For Publication)**

We reverse the trial court's findings that defendant's two New Jersey convictions for 1980 robbery and 1976 atrocious assault and battery constituted strikes. We remand to the trial court to provide the People the option to retry these strike allegations. (*People v. Rodriguez* (1999) 69 Cal.App.4<sup>th</sup> 341, 352-353.) In all other respects the judgment is affirmed. If one or both of the reversed strike allegations is not retried or is found not true, the trial court shall resentence defendant accordingly.

BUTZ, J.

We Concur:    Sims, Acting P.J.

Davis, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**Court Minutes**

**December 3, 2008, Continued**

- C056449      THE PEOPLE v.      (Not For Publication)**  
**ROBERT STANLEY PARNELL, JR.**  
The judgment is affirmed.  
SIMS, Acting P.J.  
We Concur: Raye, J.  
Morrison, J.
- C057351      THE PEOPLE v.      (Not For Publication)**  
**CHARLES GLEN CARVER**  
The judgment is affirmed. The trial court is directed to amend section 7 of the abstract of judgment to reflect that defendant was ordered to pay Elsie H. \$1,450 and to forward a copy of the amended abstract to the Department of Corrections and Rehabilitation.  
SIMS, J.  
We Concur: Scotland, P.J.  
Cantil-Sakauye, J.
- C058469      THE PEOPLE v.      (Not For Publication)**  
**DAVID ALLEN HOMAN, JR.**  
The judgment is affirmed.  
NICHOLSON, J.  
We Concur: Sims, Acting P.J.  
Davis, J.
- C055163      STRONG et al. v.      (Not For Publication)**  
**JCM PARTNERS, LLC, et al.**  
The judgment (order) quashing service of the summons and complaint on the subsidiaries is affirmed.  
HULL, J.  
We Concur: Blease, Acting P.J.  
Morrison, J.
- C056431      THE PEOPLE v. ARTHUR GUITERREZ GONZALES**  
**BY THE COURT:**  
Appellant's request to publish the opinion filed on November 05, 2008, is denied.  
NICHOLSON, Acting P.J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**Court Minutes**

**December 4, 2008**

**IN THE  
Court of Appeal of the State of California  
IN AND FOR THE  
THIRD APPELLATE DISTRICT**

**Special Calendar for Admission of Attorneys  
Sheraton Grand Sacramento Hotel  
Magnolia Room  
1230 J Street  
Sacramento**

**Thursday, December 4, 2008, 10:00 a.m.**

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<b>HON. Arthur G. Scotland</b>	<b>Presiding Justice</b>
HON. Vance W. Raye	Associate Justice
HON. Tani Cantil-Sakauye	Associate Justice
Ms. Deena C. Fawcett	Clerk/Administrator
Ms. Ana Guzman	Assistant Deputy Clerk
Mr. Jay Horner	Bailiff

Seating of State and local Bar representatives.

Court called to order by Mr. Jay Horner.

Presiding Justice Arthur G. Scotland welcomes admittees and introduces speakers.

Mr. Larry Sheingold, representing the Committee of Bar Examiners of the California State Bar, speaks to admittees and presents motion for admission.

Mr. John J. Dutton, representing the Board of Governors of the California State Bar, speaks to admittees.

Mr. Christopher Krueger, President of the Sacramento County Bar Association, speaks to admittees.

Associate Justice Vance W. Raye speaks to admittees.

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**Court Minutes**

**December 4, 2008, Continued**

Associate Justice Tani Cantil-Sakauye speaks to admittees and reads from Section 6068 of the Business & Professions Code.

Presiding Justice Arthur G. Scotland speaks to admittees, rules on motion for admission, and directs clerk to administer oath.

Oath administered by Ms. Deena C. Fawcett, Clerk/Administrator. Post admission announcement.

Court adjourns.

**C055022      THE PEOPLE v.      (Not For Publication)  
WALLACE EARL ROGERS**

The judgment (order of recommitment) is affirmed.

HULL, J.

We Concur:    Blease, Acting P.J.

Butz, J.

**C055397      THE PEOPLE v.      (Not For Publication)  
JAMES DOUGLAS SISEMORE**

The judgment is affirmed.

NICHOLSON, Acting P.J.

We Concur:    Morrison, J.

Robie, J.

**C056042      THE PEOPLE v.      (Not For Publication)  
ALEJANDRO QUINONES BARRAGAN**

The court is hereby directed to identify the victim or victims to whom restitution is to be paid and amend the sentencing minutes accordingly. The court is further directed to amend the abstract of judgment... The trial court is further directed to deliver a copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation. The judgment is otherwise affirmed.

ROBIE, J.

We Concur:    Nicholson, Acting P.J.

Morrison, J.

**C057103      THE PEOPLE v. TERRY MITCHELL      (Not For Publication)**

The judgment is affirmed.

RAYE, J.

We Concur:    Blease, Acting P.J.

Sims, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
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**Court Minutes**

**December 4, 2008, Continued**

- C057474      THE PEOPLE v.      (Not For Publication)**  
**ROGER DALE MITCHELL**
- C058528      THE PEOPLE v.      (Not For Publication)**  
**ROGER DALE MITCHELL**  
The judgment is affirmed.  
NICHOLSON, J.  
We Concur: Davis, Acting P.J.  
Hull, J.
- C057837      THE PEOPLE v.      (Not For Publication)**  
**HARRY ALBERT SEBREE**  
The judgment is modified to impose an additional \$20 court security fee.  
As so modified, the judgment is affirmed. The trial court is directed to modify the  
abstract of judgment... The trial court is further directed to forward a certified  
copy of the amended abstract of judgment to the Department of Corrections and  
Rehabilitation.  
NICHOLSON, Acting P.J.  
We Concur: Morrison, J.  
Robie, J.
- C058068      THE PEOPLE v. MICHAEL LEE McNELLY      (Not For Publication)**  
Defendant's appeal is dismissed.  
ROBIE, J.  
We Concur: Nicholson, Acting P.J.  
Morrison, J.
- C059255      THE PEOPLE v.      (Not For Publication)**  
**CHRISTOPHER JOHN DAY**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We Concur: Hull, J.  
Butz, J.
- C059209      THE PEOPLE v.      (Not For Publication)**  
**BRANDON WILLIE BOWMAN**  
The judgment is affirmed.  
RAYE, J.  
We Concur: Scotland, P.J.  
Robie, J.





**COURT OF APPEAL  
STATE OF CALIFORNIA  
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**Court Minutes**

**December 5, 2008, Continued**

**C056166**

**THE PEOPLE v. BOBBY PHONETT DAVIS**

**BY THE COURT:**

Appellant's petition for rehearing is denied.

SIMS, Acting P.J.